IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 4092 OF 2005

Hitesh Mistry ...Applicant

Versus

The State of Maharashtra & Ors. ...Respondents

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Mr. Shriram Shirsat, Advocate for Applicant.
Mr. D.P. Adsule, A.P.P. for State.

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CORAM: SMT. V.K. TAHILRAMANI, J.
DATED: 1ST JULY, 2005

P. C.:-

1. Heard the learned advocate for the applicant and the learned A.P.P. for the State.

2. The applicant has prayed for quashing of proceedings in Criminal Case No. 765/SS/2005 pending in the Court of learned Special Metropolitan Magistrate, Small Causes Court (old case No. 2720/S/2003 before the Special Metropolitan Magistrate, 4th Court at Girgaum, Mumbai.) In the said case, process has been issued against the applicant under Section 138 of Negotiable Instruments Act. The learned advocate for the applicant submitted that the learned Magistrate committed an error in issuing process and the said process deserves to be set aside. If the process issued against the applicant is set aside, the proceedings in respect of the applicant would come to an end.

3. For the reasons recorded in my order dated 13th June, 2005 passed in Criminal Writ Petition No.213 of 2005 and order dated 21st June, 2005 passed in Criminal Application No. 550 of 2005, the applicant has an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the applicant prefers revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the applicant to prefer revision before the concerned Sessions Court. The learned advocate for the applicant states that the necessary revision would be preferred within a period of three weeks from today. In view of this statement, the trial Court shall not proceed with the trial for a period of three weeks from today.

5. On the necessary revision being preferred by the applicant before the concerned Sessions Court, the concerned Sessions Court shall dispose of the same on merits after hearing necessary parties.

6. Office to issue authenticated copy of this order to the parties.

7. Criminal application is disposed of.

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